

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Darren Starr, pro se,
Plaintiff

v.

Case No. 05-cv-264-SM

Cpl. Denis Dube, and
Lt. John Loven,
Defendants

NOTICE OF RULING

Re: (Document No. 92) Plaintiff's Motion for Transcript at
Government's Expense

Ruling: Denied. Plaintiff is an inmate serving a lengthy state sentence. He brought a civil suit (42 U.S.C. Section 1983) against state prison officials based on allegations that his personal property had been intentionally destroyed during a punitive cell search conducted in retaliation for his having exercised his First Amendment rights by invoking the prison's grievance procedures. A jury trial was had and a verdict unfavorable to plaintiff was returned. Plaintiff was granted in forma pauperis status, noticed an appeal, and now seeks a free transcript (more specifically, one provided at federal expense) of the trial proceedings. Under the provisions of 28 U.S.C. Section 753(f), "[f]ees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question)." The motion is silent with regard to the issues raised, or to be raised, on appeal, so this court is unable to certify that the appeal is not frivolous and presents a substantial question. The statute provides that the required certification may be made by either the trial judge or a circuit judge sitting in the court where the appeal is pending. Accordingly, the motion is denied, but without prejudice to plaintiff's renewing the motion and making some effort to show that he can meet the statutory prerequisite – a non-frivolous appeal and a substantial question to be raised.

Entered by: Steven J. McAuliffe, Chief Judge

April 17, 2008

cc: Darren Starr, pro se
Glenn A. Perlow, Esq.